

// A regular meeting of the Council of the City of Lynchburg was held on the 13th day of May, 2003, at 7:30 P.M. in the Council Chamber, City Hall, Carl B. Hutcherson, Jr., President, presiding. Council Member Garber gave the Invocation. The Pledge of Allegiance was led by the Police Officer in attendance. The following Members were present:

Present: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Absent: Barksdale	1

// Copies of the minutes of the April 15 (two meetings), April 22 (two meetings), and April 29, 2003 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Adams, seconded by Council Member Seiffert, Council by the following recorded vote approved the minutes as presented:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

// In the matter of Public Works – Monument Terrace, Resolution #R 03-070 accepting the low bid of \$1,798,971 from C. L. Lewis, Inc., for the Monument Terrace steps renovation and appropriating \$250,000 from the General Fund Balance to the Capital Fund for this project, laid over from the April 22, 2003 meeting, was again presented and read, and on motion of Council Member Adams, seconded by Council Member Seiffert, Council by the following recorded vote adopted the Resolution:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

// In the matter of Region 2000, City Council Report #3 was considered. On motion of Council Member Adams, seconded by Council Member Seiffert, Council by the following recorded vote adopted Resolution #R 03 073, as presented, supporting inclusion of Appomattox County as a member of the Council of Chief Local Elected Officials for the Region 2000 Workforce Investment Area:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

// In the matter of Lynchburg Community Action, City Council Report #4 was considered. On motion of Council Member Adams, seconded by Council Member Seiffert, Council by the following recorded vote adopted Resolution #R 03 074, as presented, authorizing the Lynchburg Community Action Group, Inc., (Lyn-CAG) to apply for and accept a grant award with the Department of Housing and Community Development:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

// In the matter of Police - General, City Council Report #5 was considered. On motion of Council Member Adams, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid

over to a later meeting for final action Resolution #R 03 075, as presented, appropriating \$3,500, fully reimbursable, for selective enforcement/traffic safety activities:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson 6

Noes: 0

Absent: Barksdale 1

// In the matter of Police – Emergency Preparedness, City Council Report #6 was considered. On motion of Council Member Adams, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R 03 076, as presented, appropriating \$17,167, fully reimbursable, for the funding of local preparedness emergency planning:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson 6

Noes: 0

Absent: Barksdale 1

// In the matter of Fire - General, City Council Report #7 was considered. On motion of Council Member Adams, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R 03 077, as presented, appropriating \$43,157 for the purchase of Mobile Data Manager software, six slate laptop computers, and accessories to provide for electronic transfer of emergency medical service transport data into the Fire and EMS Department's ambulance billing system:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson 6

Noes: 0

Absent: Barksdale 1

// In the matter of Finance - General, City Council Report #8 was considered. On motion of Council Member Adams, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R 03 078, as presented, appropriating \$3.2 million, Section 108 Loan Guarantee Funds, and \$.8 million, Economic Development Incentive Grant Funds, fully reimbursable, for the BluffWalk project:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson 6

Noes: 0

Absent: Barksdale 1

// In the matter of Schools - General, a public hearing was held to receive the views and/or nominations of the citizens of Lynchburg concerning Council's appointments or re-appointments for three positions on the Lynchburg School Board, one from each school district. At the request of Mayor Hutcherson, the Clerk read into the record the names of the current School Board members whose terms will expire on June 30: District 1, Julia Doyle; District 2, Jean Smith-Turner; and District 3, Wayne Brindle. The Clerk then read into the record the names of volunteers who have applied to-date to serve on the School Board: District 1—Alex Bell, William Burnham, Jory Fisher, Charles Ingerson, Dorothy Smith-Akubue, and Bryan E. Tiller; District 2—Neda Hicks and Tom Roller; District 3—Les Faircloth, Stephen C. Hundley, and Glyn

Wooldridge. There was no one present who wished to speak. On motion of Council Member Adams, seconded by Council Member Garber, Council by the following recorded vote agreed to continue the public hearing until May 27 to allow more time for citizens to apply for the positions on the School Board:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

// In the matter of Community Planning Zoning, a public hearing was held regarding City Council Report #10 outlining the petition of Michael & Cheryl Davis for a Conditional Use Permit at 2010 Wiggington Road for the use of an existing structure as a bed & breakfast with up to three (3) rooms in an R-1, Single-Family Residential District. Mrs. Cheryl Davis outlined the request and asked for approval. There was no one else present who wished to speak to this item. On motion of Council Member Seiffert, seconded by Council Member Adams, Council by the following recorded vote adopted Resolution #R 03 079, as presented, granting the Conditional Use Permit:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

// In the matter of Community Planning Zoning, a public hearing was held regarding City Council Report #11 outlining the petition of Ohio State Cellular Phone Company for a Conditional Use Permit at 104 Old Spring Way to increase the height of an existing tower by fifteen (15) feet and construct an associated telecommunications cabinet in an R-1, Single-Family Residential District. Mr. Gregory Tulley, representing the petitioner, outlined the request and asked for approval. There was no one else present who wished to speak to this item. On motion of Council Member Adams, seconded by Vice Mayor Dodson, Council by the following recorded vote adopted Resolution #R 03 080, as presented, granting the Conditional Use Permit:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

// In the matter of Community Planning Zoning Amendments, a public hearing was held regarding City Council Report # 12 outlining the petition of Central City Homes, L.P. to rezone approximately .296 acres at 717 Madison Street from R-2, Single-Family Residential District to R-4, Multi-Family Residential District (Conditional) to allow the rehabilitation and use of an existing structure for up to three (3) units. Ms. Laura Dupuy, Executive Director, Lynchburg Neighborhood Development Corporation, representing Central City Homes, L.P., outlined the request and asked for approval. There was no one else present who wished to speak to this item. On motion of Council Member Foster, seconded by Council Member Adams, Council by the following recorded vote adopted Ordinance #0 03 081, as presented, granting the petition:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

// In the matter of Public Works – Street Vacation, a public hearing was held regarding City Council Report #14 regarding the vacation of a portion of public-right-of-way located at the end of Lockewood Drive. Ms. Tracey Norvelle, of Hurt & Proffitt, representing Jamerson & Company outlined the request and asked for approval. There was no one else present who wished to speak to this item. On motion of Council Member Adams, seconded by Council Member Foster, Council by the following recorded vote adopted Ordinance #O-03-082, as presented, vacating a portion of public-right-of-way located at the end of Lockewood Drive:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson 6

Noes: 0

Absent: Barksdale 1

// In the matter of Community Planning Zoning Amendments, a public hearing was held regarding City Council Report # 13 outlining the petition of Jamerson & Company to rezone approximately 10 acres at Enterprise Drive from R-2, Single-Family Residential District (Conditional) to R-2, Single-Family Residential District (Conditional) to amend previously approved proffers, and for a Conditional Use Permit at Enterprise Drive & 1536 Lockewood Drive to amend the previously approved Traditional Neighborhood Development Plan to allow the construction of apartments and additional single-family uses in an R-2, Single-Family Residential District (Conditional) and an R-1, Single-Family Residential District. Ms. Tracey Norvelle, of Hurt & Proffitt, along with Mr. Bill Jamerson outlined the request and asked for approval. Four individuals spoke in opposition to the proposed petition citing the following concerns: (1) removal of the existing tree buffer between the development and the adjoining residential neighborhood, water runoff from the proposed parking lot, increased density via apartments versus single family homes, increased traffic, and decreased property values. There was no one else present who wished to speak to this item. Several Council Members also expressed concerns regarding the increased density that this change would generate via apartments versus single family homes, including the increased traffic that the change would generate. Following discussion, Council Member Garber made a motion, seconded by Council Member Adams to approve the petition. Vice Mayor Dodson made a substitute motion, seconded by Council Member Foster, to postpone a decision regarding this petition for at least sixty days to allow the petitioner and staff to address some of the neighbors concerns. Council Member Garber withdrew his original motion; Council Member Adams withdrew his second to the original motion. The vote was called on the substitute motion, and Council by the following recorded vote agreed to postpone a decision regarding this petition for at least sixty days to allow the petitioner and staff to address some of the concerns expressed at the public hearing:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson 6

Noes: 0

Absent: Barksdale 1

// In the matter of Budget, a public hearing was held regarding City Council Report #15 regarding appropriating supplemental funds for both the City Capital and Operating Budgets for the twelve month

period beginning July 1, 2002 and ending June 30, 2003. Deputy City Manager Bonnie Svrcek outlined the request. There was no one else present who wished to speak to this item. On motion of Vice Mayor Dodson, seconded by Council Member Adams, Council by the following recorded vote introduced and laid over to a later meeting for final action Ordinance #O-03-083, as presented, appropriating supplemental funds for both the City Capital and Operating Budgets for the twelve month period beginning July 1, 2002 and ending June 30, 2003:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

// In the matter of City Council, Mr. Ralph Tucker, representing First Baptist Church, requested relief to the Church from paying the sewer portion of water bills during the period that the steam boilers are used to heat the Church. Mr. Tucker explained that the excess water used during this period wind up as steam and is not going into the sewer system. In addition, Mr. Tucker requested reimbursement of the sewer portion of the Church's water bills for the previous four years. City Council referred this request to the Physical Development Committee for review and recommendation.

// In the matter of Public Works - Refuse, Mr. Donald May referenced a petition submitted earlier to City Council containing the signatures of 1,317 of the City's registered voters in opposition to the proposed changes in the Solid Waste Management System, i.e., imposition of a \$5 monthly solid waste fee attached to the water bill, elimination of the 45 cent trash tag, and implementation of a semi-automated refuse collection program. Mr. May requested that City Council rescind its previous approval of the \$5 monthly solid waste user fee and that such fee not be charged to residents without first giving duly registered voters an opportunity to vote approval or disapproval for such action. Mr. May also requested that City Council delay implementation of the proposed semi-automated waste collection program until after the registered voters have had an opportunity to vote approval or disapproval for such program. Vice Mayor Dodson commented that City Council had no choice but to raise either fees or taxes to support the solid waste fund.

// In the matter of FY 2004 Budget/City Code, City Council Report #18 regarding the Proposed FY 2004 General Government Budget and Proposed FY 2004 – 2009 Capital Improvement Program was considered. At the request of Vice Mayor Dodson, Mr. Barry Hawkins, with the Virginia Petroleum, Convenience and Grocery Association, outlined the negative impact the proposed 20-cent per pack increase in the cigarette tax would have on local convenience stores. Mr. Hawkins asked that City Council consider a more steady revenue source to balance the budget. Some Council Members also expressed concern regarding the negative impact that the proposed cigarette tax increase would have on local merchants, while Council Member Seiffert argued that the increase would not bring storeowners any more loss in sales than the City's previous cigarette tax increases had. Council Member Foster commented that the proposed increase in the tax would deter youth usage of cigarettes. Council Member Garber complimented staff on the preparation of the budget document, but noted that he would not support

portions of the proposed budget. Other Council Members also thanked staff for their efforts in the budget process. On motion of Council Member Seiffert, seconded by Council Member Foster, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 084, as presented, adopting the FY 2004 Proposed General Fund Operating Budget (excluding Civic, Community and Regional expenditures) and appropriating \$127,561,414 for the General Fund Operating Budget:

Ayes: Adams, Foster, Seiffert, Hutcherson	4
Noes: Dodson, Garber	2
Absent: Barksdale	1

Council Member Foster stated that she would not participate in the discussion of the Civic, Community and Regional budget because her employer, the Alliance for Families and Children, is included for proposed funding. On motion of Vice Mayor Dodson, seconded by Council Member Garber, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 085, as amended, adopting the FY 2004 Proposed Mandated and Contractual portions of the Civic, Community and Regional Budget and appropriating \$5,419,666 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson	5
Noes:	0
Absent: Barksdale	1
Abstention: Foster	1

Vice Mayor Dodson made a motion, seconded by Mayor Hutcherson, that City Council postpone until the next meeting when Council Member Barksdale will be present any discussion regarding the Discretionary items listed in the Civic, Community and Regional Budget. In response to questioning, City Attorney Walter Erwin explained that Council Member Foster could vote on this procedural question if she made the statement acknowledging her interest in the matter and that she is able to participate in this matter fairly, objectively and in the public interest. Council Member Foster stated that she is the Chief Operating Officer of the Alliance for Families and Children, and a member of a group of organizations that will be affected by the motion to postpone the vote on the funding for Civic, Community and Regional Organizations until the May 27 meeting, and that even though she is a member of the group of organizations that will be affected by the proposed motion, she is able to participate in this matter fairly, objectively and in the public interest. The vote was called on the motion, and Council by the following recorded vote defeated the motion:

Ayes: Dodson, Foster, Hutcherson	3
Noes: Adams, Garber, Seiffert	3
Absent: Barksdale	1

Council Member Garber made a motion to exclude funding for the Alliance for Families and Children Child Care Resource Center and Partnership for Prevention of Drug Abuse from the proposed FY2004 Budget. There was no second to the motion.

Council Member Adams made a motion, seconded by Council Member Garber, that City Council consider each item in the Discretionary portion of the Civic, Community and Regional Budget individually. Council Member Foster stated that she is the Chief Operating Officer of the Alliance for Families and Children and a member of a group of organizations that will be affected by the motion, and that even though she is a member of the group of organizations that will be affected by the proposed motion, she is able to participate in this matter fairly, objectively and in the public interest. The vote was called on the motion, and Council by the following recorded vote approved the motion:

Ayes: Adams, Garber, Seiffert, Hutcherson 4

Noes: Dodson, Foster 2

Absent: Barksdale 1

Prior to voting on the individual items, Council Member Garber stated that even though the Alliance for Families and Children does a lot of good work, to award money to an organization that a Council Member sits on as chief operating officer is wrong. Council Member Seiffert reiterated his earlier position that he would not support funding of some discretionary non-profit organizations in future budgets. Council Member Seiffert made a motion, seconded by Mayor Hutcherson, to approve \$25,000 in the Proposed FY2004 Budget for the Alliance for Families and Children – Child Care Resource Center, and Council by the following recorded vote defeated the motion:

Ayes: Dodson, Seiffert, Hutcherson 3

Noes: Adams, Garber 2

Absent: Barksdale 1

Abstention: Foster 1

Council Member Seiffert made a motion, seconded by Vice Mayor Dodson, to approve \$19,200 in the Proposed FY2004 Budget for the Alliance for Families and Children – Partnership for Prevention of Drug Abuse, and Council by the following recorded vote defeated the motion:

Ayes: Dodson, Seiffert, Hutcherson 3

Noes: Adams, Garber 2

Absent: Barksdale 1

Abstention: Foster 1

On motion of Vice Mayor Dodson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 086, adopting the Proposed FY 2004 Central Virginia Area Agency on Aging Budget and appropriating \$5,200 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson 5

Noes: 0

Absent: Barksdale 1

Abstention: Foster 1

On motion of Vice Mayor Dodson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 087,

adopting the Proposed FY 2004 Central Virginia Community College Board and Related Operations Budget and appropriating \$2,032 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson	5
Noes:	0
Absent: Barksdale	1
Abstention: Foster	1

On motion of Vice Mayor Dodson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 088, adopting the Proposed FY 2004 Court Appointed Special Advocate Budget and appropriating \$10,557 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson	5
Noes:	0
Absent: Barksdale	1
Abstention: Foster	1

On motion of Vice Mayor Dodson, seconded by Mayor Hutcherson, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 089, adopting the Proposed FY 2004 Greater Lynchburg Transit Company Budget and appropriating \$497,522 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson	5
Noes:	0
Absent: Barksdale	1
Abstention: Foster	1

On motion of Vice Mayor Dodson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 090, adopting the Proposed FY 2004 Keep Lynchburg Beautiful Commission Budget and appropriating \$500 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson	5
Noes:	0
Absent: Barksdale	1
Abstention: Foster	1

On motion of Vice Mayor Dodson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 091, adopting the Proposed FY 2004 Lynchburg Lifesaving/Rescue Squad Budget and appropriating \$9,419 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson	5
Noes:	0
Absent: Barksdale	1
Abstention: Foster	1

On motion of Vice Mayor Dodson, seconded by Mayor Hutcherson, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 092, adopting the Proposed FY 2004 Region 2000 Economic Development Partnership Budget and appropriating \$65,800 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson	5
Noes:	0
Absent: Barksdale	1
Abstention: Foster	1

On motion of Vice Mayor Dodson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 093, adopting the Proposed FY 2004 Robert E. Lee Soil & Water Conservation District Budget and appropriating \$10,000 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson	5
Noes:	0
Absent: Barksdale	1
Abstention: Foster	1

On motion of Vice Mayor Dodson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 094, adopting the Proposed FY 2004 Virginia Legal Aid Society Budget and appropriating \$9,960 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson	5
Noes:	0
Absent: Barksdale	1
Abstention: Foster	1

On motion of Vice Mayor Dodson, seconded by Council Member Adams, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 095, as revised, adopting the FY 2004 Proposed Budget for the remaining funds and appropriating the sums for each fund:

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson	6
Noes:	0
Absent: Barksdale	1

Council Member Foster stated that she would not participate in the discussion or award of Community Development Block Grant (CDBG) funds because her employer, the Alliance for Families and Children, has submitted a request for CDBG funding. On motion of Council Member Seiffert, seconded by Vice Mayor Dodson, Council by the following recorded vote introduced and laid over to a later meeting for

final action Budget Ordinance #O 03 096, as presented, adopting the Community Development Block Grant Fund Budget and appropriating \$1,187,982 for this budget:

Ayes: Adams, Dodson, Garber, Seiffert, Hutcherson 5

Noes: 0

Absent: Barksdale 1

Abstention: Foster 1

On motion of Vice Mayor Dodson, seconded by Council Member Foster, Council by the following recorded vote adopted Ordinance #O 03 097, as presented, adopting the FY 2004 – 2009 Capital Improvements Program (CIP):

Ayes: Adams, Dodson, Foster, Garber, Seiffert, Hutcherson 6

Noes: 0

Absent: Barksdale 1

On motion of Vice Mayor Dodson, seconded by Council Member Foster, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O 03 098, as presented, appropriating the sums for the first year of the FY 2004 – 2009 Capital Improvements Program (CIP):

Ayes: Dodson, Foster, Garber, Seiffert, Hutcherson 5

Noes: Adams 1

Absent: Barksdale 1

On motion of Council Member Adams, seconded by Council Member Foster, Council by the following recorded vote adopted Ordinance #O 03 099, as presented, amending Section 36-196 of the City Code relating to the rate and amount of the local tax on cigarettes:

Ayes: Adams, Foster, Seiffert, Hutcherson 4

Noes: Dodson, Garber 2

Absent: Barksdale 1

// The meeting was recessed at 9:50 P.M. to May 27, at 1:00 P.M. to conduct a work session regarding several items.

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Clerk of Council